

Talking Points
Commerce Committee Hearing
Internet Privacy
October 3, 2000
Senator John Kerry

Good morning, Mr. Chairman. Thank you for holding this hearing today. Although the end of the Congress is close, I believe today's hearing will lay the groundwork of the work we do next year on Internet privacy.

In this Committee, we have a number of perspectives regarding Internet privacy represented. Mr. Chairman, I'd like to thank you for working with me on the bill we introduced, the Consumer Privacy Enhancement Act. I'm also pleased that our approach has the support of Hewlett Packard and AOL, who are testifying here today, as well as the Walt Disney Company.

I'd also like to point out that Senator Hollings has done outstanding work on a bill that takes a different approach, and many of my Democratic colleagues on the Committee have joined him on that bill. Senators Wyden and Burns were among the first to introduce a privacy bill. I suspect others here take the view that now is not the time for regulation, and that consumer privacy on the Internet can best be protected through self-regulatory efforts.

Mr. Chairman, no matter what approach we have taken, we all have the same goal. We all want to ensure that consumer's reasonable expectations of privacy on the Internet are satisfied. Moreover, none of us wants to hamper the growth of the Internet. Striking that right balance is going to be the goal that we all aim for next year, when I expect we will pass an Internet privacy bill. I look forward to working with all of my colleagues in order to find that balance.

Mr. Chairman, I'd like to briefly explain my priorities in working with you on the bill we introduced in July. There is no question that consumers expect a certain degree of privacy on the Internet. We've seen that in survey upon survey, and I believe we need to address those concerns. However I believe that their expectation of privacy when they surf the Internet is different from what they demand for their medical records or their financial information.

A survey done in my home state of Massachusetts supports this conclusion. Mass Insight Corporation found in a survey it performed in May of this year that, "Where they can clearly perceive specific benefits from data collection and information sharing on the Internet, most people see the rewards outweighing any concerns about privacy."

It's true that Massachusetts has more Internet users than the national average, and that might make them more comfortable with privacy practices on the Internet. But I think it also indicates that as more and more people use the Internet, they too will be more comfortable sharing information in exchange for the benefits they receive. An interesting statistic from that survey is that 70 percent of Massachusetts adults have access to the Internet, and of those, 69 percent say the benefits of electronic information sharing outweigh the risk.

Let me be clear, this in no way suggests to me that there should be an information free-for all on the Internet. We have a responsibility to establish a baseline for privacy standards that empowers consumers to make the decisions that best suit their needs. I think our bill does that. At the same time, we should very carefully target our efforts to address the real concerns people have. We should support legislation that ensures the privacy of financial and medical records.

Another important finding in the Massachusetts survey is that when asked to choose between privacy risks and specific benefits in "real-life tradeoffs," more people say we should encourage, rather than discourage, technology-based information sharing. In the category of shopping over the Internet, which is certainly the area our bill targets, 49 percent of the people surveyed said we should encourage information sharing, compared to 38 percent who said we should discourage it. Finally Mr. Chairman, I would just point out,

given our interest in campaign finance reform, that 69 percent of the people surveyed believe we should encourage more technology-based information sharing in our laws regarding disclosure of political contributions.

What this says to me, Mr. Chairman, is that we must be careful that we don't inadvertently take away some of the benefits of the Internet while we are addressing privacy issues. People like the speed of the Internet, they like the convenience of the Internet, and they like that they can surf the Web for free, because of the advertising support on the Internet. Business spent more than \$1.9 billion to advertise on the Web in 1998, with spending on electronic advertising expected to climb to \$6.7 billion by 2001. This advertising is the reason that we don't have a subscription-based Internet, which would limit everyone's online activities and contribute to a digital divide.

I think people like this model, and understand that those banner ads they see on their screens are necessary to keep the Internet free. What I don't think people understand is that, at least for now, the model for Internet advertising is going to include ads that are narrowly targeted to particular consumers. The jury is still out on just how targeted the ads need to be. I for one believe that ads can be targeted to a fairly narrow range of individuals and but that anonymity can still be protected. But I don't believe that Congress should at this point prevent a certain kind of model from being used, especially when the people using the Internet are willing to trade some privacy protection for the benefits of electronic information sharing.

As we debate the issue of exactly how much online privacy Congress should mandate, and how much can be provided because the market demands it, I also think it is appropriate to discuss the differences between online and offline privacy. As you know, Mr. Chairman, our bill calls for a study of offline privacy practices by the National Academy of Sciences. I think that is the right approach, because I don't think any of us are prepared to answer that question now, nor do I think our efforts to regulate Internet privacy should wait until we have all of the answers that such a study would provide.

But I do think it's important that offline privacy issues are included in the debate, because I think we need

often and from where you use your telephone calling card. They can sell this information to hotel companies, rental car companies and airlines.

Credit worthiness. There are lists of people who applied for credit but were turned down. These are very useful for credit card companies charging a high rate of interest.

Sexual preferences. A subscription to a gay magazine or a contribution to an AIDs related charity gives marketers an indication of sexual preference.

Birth of a newborn. Women who subscribe to parenting magazines, shop at maternity stores or sign for childbirth classes come home from the hospital with coupons for formula and samples of disposable diapers waiting for them.

Browsing habits. Department stores and malls use surveillance to study the best layouts of stores and displays.

We probably all have differences of opinions as to which of these practices we believe are egregious intrusions of privacy and which are acceptable marketing practices. The point is, Mr. Chairman, that these things are already commonplace offline. So in our bill, when we mandate that people are given clear and conspicuous notice and choice, we are, in some respects, giving consumers more privacy choices than they have offline. Maybe we need to go further still, and I expect that will be part of the debate we will engage in as these privacy bills move through Congress. But we should be realistic about what is already going on.

Mr. Chairman, this hearing is just the beginning of the debate that is going to continue next year, and I look forward to working with all of my colleagues to resolve our differences and find a balanced approach to this issue.

Thank you Mr. Chairman, I look forward to hearing from the witnesses.